

**To:** Isales, Daniel[Isales.Daniel@epa.gov]  
**From:** O'Lone, Mary  
**Sent:** Fri 12/2/2016 8:50:01 PM  
**Subject:** FW: Formulating request for Dr. Johnston's underlying data

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** O'Lone, Mary  
**Sent:** Thursday, December 01, 2016 4:43 PM  
**To:** Burden, Frances (CRT) <Frances.Burden@usdoj.gov>  
**Cc:** Gelman, Laurie (CRT) <Laurie.Gelman@usdoj.gov>  
**Subject:** FW: Formulating request for Dr. Johnston's underlying data

Frances-

FYI. I didn't think there was a protocol, but if there is sorry for ignoring it. But I didn't want to lose any time in case Laurie was out or swamped with other work. I am forwarding the request Dan sent to Laurie figuring you'll coordinate with her before getting back to us.

**Ex. 6 - Personal Privacy** on election night which is why we'd most likely be trying to articulate to Dr. Johnston what information/data we want.

Thanks, Mary

Mary O'Lone

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Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** Isales, Daniel

**Sent:** Thursday, December 01, 2016 4:11 PM

**To:** Gelman, Laurie (CRT) <[Laurie.Gelman@usdoj.gov](mailto:Laurie.Gelman@usdoj.gov)>

**Cc:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>

**Subject:** Formulating request for Dr. Johnston's underlying data

Laurie,

## **Ex. 5 - Deliberative Process Atty Client**

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

[Isales.daniel@epa.gov](mailto:Isales.daniel@epa.gov)

**To:** Isales, Daniel[Isales.Daniel@epa.gov]  
**From:** O'Lone, Mary  
**Sent:** Tue 11/1/2016 4:35:54 PM  
**Subject:** RE: EPA OCR File No. 11R-14-R4

Please forward Lilian my email about the RFI. She wasn't on my distribution list.

I missed her email in my in box

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** Isales, Daniel  
**Sent:** Tuesday, November 01, 2016 11:29 AM  
**To:** Covington, Jeryl <Covington.Jeryl@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Johnson, Johanna <Johnson.Johanna@epa.gov>  
**Subject:** RE: EPA OCR File No. 11R-14-R4

We didn't touch upon this in our discussions this morning. Although inconvenient for the timetable we have tentatively established, I don't see a good reason that we could articulate as to why 30 days is too long, particularly in light of the emergency the state just experienced. As to narrowing down the specific CAFO's or counties, I would just refer them to the complaint and the studies which support the complaint. What does everyone think? Thanks, Dan

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

[Isales.daniel@epa.gov](mailto:Isales.daniel@epa.gov)

**From:** Dorka, Lilian

**Sent:** Monday, October 31, 2016 9:41 PM

**To:** Lapierre, Kenneth <[Lapierre.Kenneth@epa.gov](mailto:Lapierre.Kenneth@epa.gov)>; HALIM-CHESTNUT, NAIMA <[Halim-Chestnut.Naima@epa.gov](mailto:Halim-Chestnut.Naima@epa.gov)>; Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>; Covington, Jeryl <[Covington.Jeryl@epa.gov](mailto:Covington.Jeryl@epa.gov)>; Temple, Kurt <[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)>; O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>; Rhodes, Julia <[Rhodes.Julia@epa.gov](mailto:Rhodes.Julia@epa.gov)>; Packard, Elise <[Packard.Elise@epa.gov](mailto:Packard.Elise@epa.gov)>; Farrell, Ericka <[Farrell.Ericka@epa.gov](mailto:Farrell.Ericka@epa.gov)>; Wilson, Adam <[wilson.adam@epa.gov](mailto:wilson.adam@epa.gov)>; Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Johnson, Johahna <[Johnson.Johahna@epa.gov](mailto:Johnson.Johahna@epa.gov)>

**Subject:** Fwd: EPA OCR File No. 11R-14-R4

Team, please see below and attached. We will need to respond. I need to look close tomorrow but I do t see in here what kind of extension is being requested. Would we consider 15 days? 2 weeks? One week?

Ex. 5 - Deliberative Process

## Ex. 5 - Deliberative Process

## Ex. 5 - Deliberative Process

Sent from my iPhone

Begin forwarded message:

**From:** "Hayes, Sam M" <[sam.hayes@ncdenr.gov](mailto:sam.hayes@ncdenr.gov)>  
**Date:** October 31, 2016 at 4:09:38 PM EDT  
**To:** "dorka.lilian@epa.gov" <[dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov)>  
**Cc:** "Lapierre, Kenneth" <[Lapierre.Kenneth@epa.gov](mailto:Lapierre.Kenneth@epa.gov)>, "Evans, John" <[john.c.evans@ncdenr.gov](mailto:john.c.evans@ncdenr.gov)>, "Bromby, Craig A" <[craig.bromby@ncdenr.gov](mailto:craig.bromby@ncdenr.gov)>  
**Subject:** EPA OCR File No. 11R-14-R4

Dear Ms. Dorka:

I have attached a letter requesting an extension of time to file a substantive response to the administrative complaint filed against the North Carolina Department of Environmental Quality, No. 11R-14-R4. A hard copy of the letter has been sent to you via certified mail.

Please let me know if you have any questions.

Sincerely,

**Sam M. Hayes**

General Counsel

N.C. Department of Environmental Quality

**Telephone:** 919-707-8616

**Mailing Address:**

1601 Mail Service Center

Raleigh, NC 27699-1601

**Physical Address:**

217 W. Jones Street

Raleigh, NC 27603

**To:** O'Lone, Mary[OLone.Mary@epa.gov]; Isales, Daniel[Isales.Daniel@epa.gov]; Jefferson, Tricia[Jefferson.Tricia@epa.gov]  
**Cc:** Gogal, Danny[Gogal.Danny@epa.gov]  
**From:** Harris, Dona  
**Sent:** Tue 11/1/2016 3:04:17 PM  
**Subject:** RE: REACH - Relatively urgent Tribal question

The Region 4 Tribal Program Manager is Lisa Berrios she is also Region's 4 poc for implementation of the EPA Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples.

Lisa's work number 404/562-8318

I will check everyone schedule and try to schedule something for this week.

Dona M. Harris  
American Indian Environmental Office

Sr Program Manger- Policy and Partnerships  
Office of International and Tribal Affairs  
wk(202) 564-6633  
[harris.dona@epa.gov](mailto:harris.dona@epa.gov)

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The Dance of Life only requires steps that move our hearts. The direction of Life comes from whether we choose to move forward, stand still or stand in the past. Live your Dance. - Unknown

**From:** O'Lone, Mary  
**Sent:** Tuesday, November 01, 2016 10:57 AM  
**To:** Harris, Dona <Harris.Dona@epa.gov>; Isales, Daniel <Isales.Daniel@epa.gov>; Jefferson,



Tricia <Jefferson.Tricia@epa.gov>  
**Cc:** Gogal, Danny <Gogal.Danny@epa.gov>  
**Subject:** RE: REACH - Relatively urgent Tribal question

Dona-

That would be great. We are travelling to NC around Nov. 11-15<sup>th</sup>.

How about tomorrow? Although North Carolina is in R4.

Who would the Tribal Program Manager in R4 be?

Thanks, Mary

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**To:** Isales, Daniel <Isales.Daniel@epa.gov>; Jefferson, Tricia <Jefferson.Tricia@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** Gogal, Danny <Gogal.Danny@epa.gov>  
**Subject:** RE: REACH - Relatively urgent Tribal question

Is it possible to have a phone conversation about this? When is an decision needed? Also has anyone brought the issue to the attention of Jennie Saxe, R3 Tribal Program Manager?

Dona M. Harris

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[harris.dona@epa.gov](mailto:harris.dona@epa.gov)

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**Cc:** Gogal, Danny <[Gogal.Danny@epa.gov](mailto:Gogal.Danny@epa.gov)>; Harris, Dona <[Harris.Dona@epa.gov](mailto:Harris.Dona@epa.gov)>  
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Tricia,

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(410) 305-3016

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**From:** Jefferson, Tricia

**Sent:** Monday, October 31, 2016 11:25 AM

**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>; Guadagno, Tony <[Guadagno.Tony@epa.gov](mailto:Guadagno.Tony@epa.gov)>

**Cc:** Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Gogal, Danny <[Gogal.Danny@epa.gov](mailto:Gogal.Danny@epa.gov)>; Harris, Dona <[Harris.Dona@epa.gov](mailto:Harris.Dona@epa.gov)>

**Subject:** RE: REACH - Relatively urgent Tribal question

Hi Mary,

Engaging with indigenous peoples, including state-recognized tribes, on EPA actions is one of the key principles of the EJ Policy on Tribes and Indigenous Peoples (see language below).

Reaching out to the Lumbee Nation in furtherance of the Title VI investigation would seem to be consistent with the letter and spirit of the Policy. I've copied Danny Gogal and Dona Harris who are the Tribal and Indigenous Peoples Advisors for OEJ and AIEO, to get any additional thoughts they may have, including any recent examples of EPA engagement with state-recognized tribes.

"The EPA strives for open communication and meaningful involvement with indigenous peoples and communities and also encourages an appropriate level of involvement by other federal and non-federal government agencies in matters in which EPA is involved."

A copy of the policy can be found [here](#).

Let me know if have any additional questions.

Thanks,

Tricia

Tricia Jefferson

Office of General Counsel

U.S. EPA

202.564.6628

**From:** O'Lone, Mary

**Sent:** Monday, October 31, 2016 7:42 AM

**To:** Guadagno, Tony <[Guadagno.Tony@epa.gov](mailto:Guadagno.Tony@epa.gov)>

**Cc:** Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Jefferson, Tricia <[Jefferson.Tricia@epa.gov](mailto:Jefferson.Tricia@epa.gov)>

**Subject:** RE: REACH - Relatively urgent Tribal question

Thanks.

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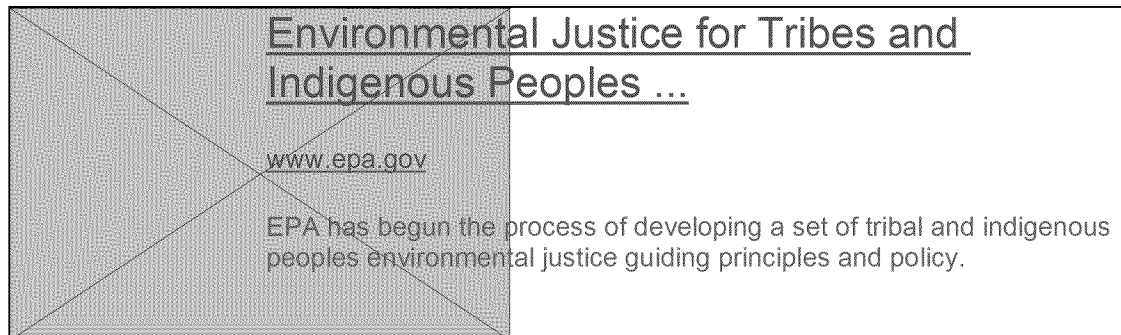
(202) 564-4992

**From:** Guadagno, Tony  
**Sent:** Friday, October 28, 2016 5:06 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** Rhodes, Julia <Rhodes.Julia@epa.gov>; Isales, Daniel <Isales.Daniel@epa.gov>; Jefferson, Tricia <Jefferson.Tricia@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>  
**Subject:** Re: REACH - Relatively urgent Tribal question

Hi Mary - I'm assigning this to Tricia, who is OGC's contact on EPA's "Policy on Environmental Justice for Working with Federally Recognized Tribes and Indigenous Peoples." The Policy defines "indigenous peoples" to include state-recognized tribes as well as their members and, thus, is relevant here (even though the Lumbee Tribe is not a federally recognized tribe). Tricia can help figure out how the Policy applies in this context. Thanks and have a great weekend!

Tony

<https://www.epa.gov/environmentaljustice/environmental-justice-tribes-and-indigenous-peoples>



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**Sent:** Friday, October 28, 2016 4:16 PM  
**To:** Guadagno, Tony  
**Cc:** Rhodes, Julia; Isales, Daniel  
**Subject:** REACH - Relatively urgent Tribal question

Tony-

I am hoping this isn't a difficult question since the Tribe we are talking about, the Lumbee of

North Carolina, is a state recognized Tribe, but not a Federally-recognized Tribe (according to the quote from the Lumbee Nation website at end of email).

OCR is conducting a Title VI investigation about swine farms in NC. The complaint alleges disparate impacts against African Americans, & Native Americans. OCR is planning a site visit to interview residents the week of November 14<sup>th</sup>.

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Earthjustice sent declarations from African Americans & Hispanics about the impacts. But none from Native Americans. We have asked Earthjustice if they are working with any Native Americans who would be interested in speaking with us. They said the complainant organizations have been at meetings with the Lumbee Tribal Council & members generally as they have been working on the issue of swine CAFOs & are trying to see if they will work with them or us on the case. They said Council members seemed interested.

I am trying to figure out what, if any, bases we should touch or any guidance we should follow if Earthjustice lets us know either Tribal govt. reps and/or individual members would be willing to speak with us. Thanks, Mary

"In 1885, the tribe was recognized as Indian by the State of North Carolina. The tribe has sought full federal recognition from the United States Government since 1888. In 1956, Congress passed the Lumbee Act, which recognized the tribe as Indian. However, the Act withheld the full benefits of federal recognition from the tribe. Efforts are currently underway to pass federal legislation that grants full recognition to the Lumbee Tribe of North Carolina."

<http://www.lumbeetribe.com/history--culture>

### Lumbee Tribe of North Carolina

[www.lumbeetribe.com](http://www.lumbeetribe.com)

The Lumbee Tribe is dedicated to our culture, traditions and history. We offer many services to our nation.

Mary O'Lone

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Who would the Tribal Program Manager in R4 be?

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Tricia Jefferson

Office of General Counsel

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202.564.6628

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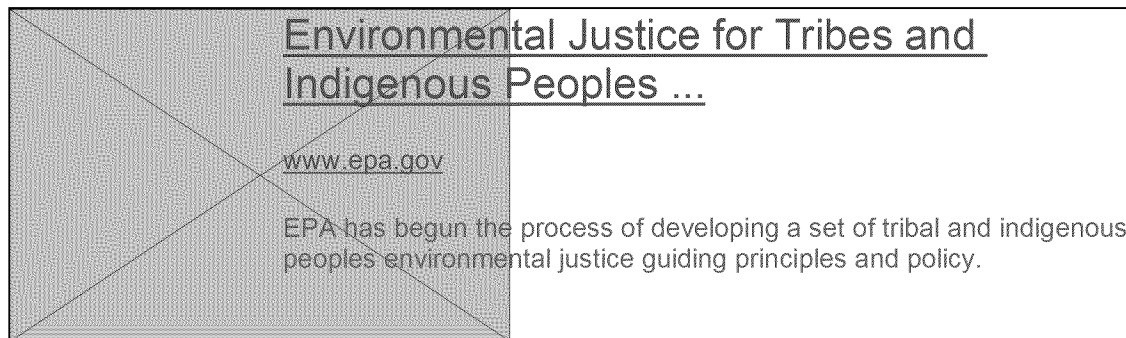
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**Sent:** Tue 11/1/2016 1:28:05 PM  
**Subject:** RE: REACH - Relatively urgent Tribal question

I'd be happy to get on a call to discuss this matter with you all.

Thanks,

Danny

Daniel E. Gogal

Senior Environmental Protection Specialist  
Tribal and Indigenous Peoples Program Manager

EPA Lead for International Human Rights Agreements

Office of Environmental Justice, USEPA  
MC (2201-A)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-2576, (202) 501-0740 - Fax

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**Sent:** Monday, October 31, 2016 11:25 AM

**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>; Guadagno, Tony <[Guadagno.Tony@epa.gov](mailto:Guadagno.Tony@epa.gov)>

**Cc:** Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Gogal, Danny <[Gogal.Danny@epa.gov](mailto:Gogal.Danny@epa.gov)>; Harris, Dona <[Harris.Dona@epa.gov](mailto:Harris.Dona@epa.gov)>

**Subject:** RE: REACH - Relatively urgent Tribal question

Hi Mary,

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Reaching out to the Lumbee Nation in furtherance of the Title VI investigation would seem to be consistent with the letter and spirit of the Policy. I've copied Danny Gogal and Dona Harris who are the Tribal and Indigenous Peoples Advisors for OEJ and AIEO, to get any additional thoughts they may have, including any recent examples of EPA engagement with state-recognized tribes.

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A copy of the policy can be found [here](#).

Let me know if have any additional questions.

Thanks,

Tricia

Tricia Jefferson

Office of General Counsel

U.S. EPA

202.564.6628

**From:** O'Lone, Mary  
**Sent:** Monday, October 31, 2016 7:42 AM  
**To:** Guadagno, Tony <[Guadagno.Tony@epa.gov](mailto:Guadagno.Tony@epa.gov)>  
**Cc:** Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Jefferson, Tricia <[Jefferson.Tricia@epa.gov](mailto:Jefferson.Tricia@epa.gov)>  
**Subject:** RE: REACH - Relatively urgent Tribal question

Thanks.

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

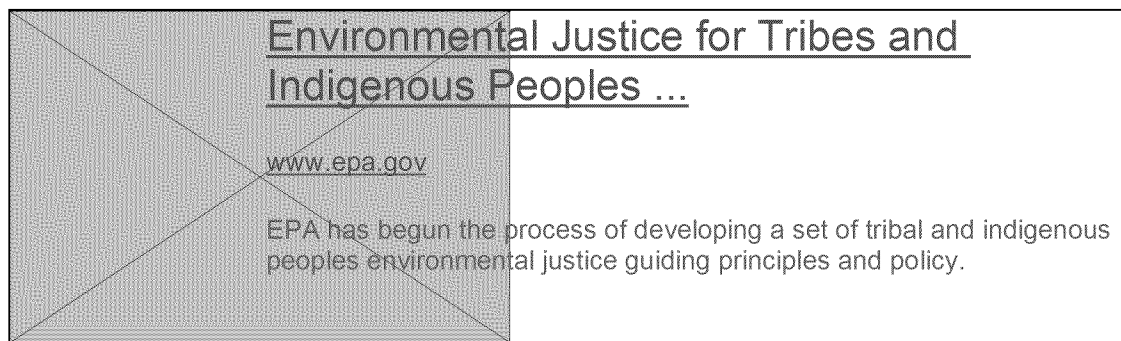
**From:** Guadagno, Tony  
**Sent:** Friday, October 28, 2016 5:06 PM  
**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>

**Cc:** Rhodes, Julia <[Rhodes.Julia@epa.gov](mailto:Rhodes.Julia@epa.gov)>; Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Jefferson, Tricia <[Jefferson.Tricia@epa.gov](mailto:Jefferson.Tricia@epa.gov)>; Armor, Suzanne <[Armor.Suzanne@epa.gov](mailto:Armor.Suzanne@epa.gov)>  
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<https://www.epa.gov/environmentaljustice/environmental-justice-tribes-and-indigenous-peoples>



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**Sent:** Friday, October 28, 2016 4:16 PM  
**To:** Guadagno, Tony  
**Cc:** Rhodes, Julia; Isales, Daniel  
**Subject:** REACH - Relatively urgent Tribal question

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## Ex. 5 - Attorney Client

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I am trying to figure out what, if any, bases we should touch or any guidance we should follow if Earthjustice lets us know either Tribal govt. reps and/or individual members would be willing to speak with us. Thanks, Mary

"In 1885, the tribe was recognized as Indian by the State of North Carolina. The tribe has sought full federal recognition from the United States Government since 1888. In 1956, Congress passed the Lumbee Act, which recognized the tribe as Indian. However, the Act withheld the full benefits of federal recognition from the tribe. Efforts are currently underway to pass federal legislation that grants full recognition to the Lumbee Tribe of North Carolina."

<http://www.lumbeetribe.com/history--culture>

### Lumbee Tribe of North Carolina

[www.lumbeetribe.com](http://www.lumbeetribe.com)

The Lumbee Tribe is dedicated to our culture, traditions and history. We offer many services to our nation.

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US EPA

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Washington, DC 20460

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**To:** Isales, Daniel[Isales.Daniel@epa.gov]; Jefferson, Tricia[Jefferson.Tricia@epa.gov]; O'Lone, Mary[OLone.Mary@epa.gov]  
**Cc:** Gogal, Danny[Gogal.Danny@epa.gov]  
**From:** Harris, Dona  
**Sent:** Tue 11/1/2016 12:42:09 PM  
**Subject:** RE: REACH - Relatively urgent Tribal question

Is it possible to have a phone conversation about this? When is a decision needed? Also has anyone brought the issue to the attention of Jennie Saxe, R3 Tribal Program Manager?

Dona M. Harris  
American Indian Environmental Office

Sr Program Manger- Policy and Partnerships  
Office of International and Tribal Affairs  
wk(202) 564-6633  
[harris.dona@epa.gov](mailto:harris.dona@epa.gov)

### Partnering with Tribes to Make a Visible Difference

Find out more at [www2.epa.gov/tribal](http://www2.epa.gov/tribal)



The Dance of Life only requires steps that move our hearts. The direction of Life comes from whether we choose to move forward, stand still or stand in the past. Live your Dance. - Unknown

**From:** Isales, Daniel  
**Sent:** Tuesday, November 01, 2016 8:35 AM  
**To:** Jefferson, Tricia <Jefferson.Tricia@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** Gogal, Danny <Gogal.Danny@epa.gov>; Harris, Dona <Harris.Dona@epa.gov>  
**Subject:** RE: REACH - Relatively urgent Tribal question

Tricia,

# Ex. 5 - Deliberative Process

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

[Isales.daniel@epa.gov](mailto:Isales.daniel@epa.gov)

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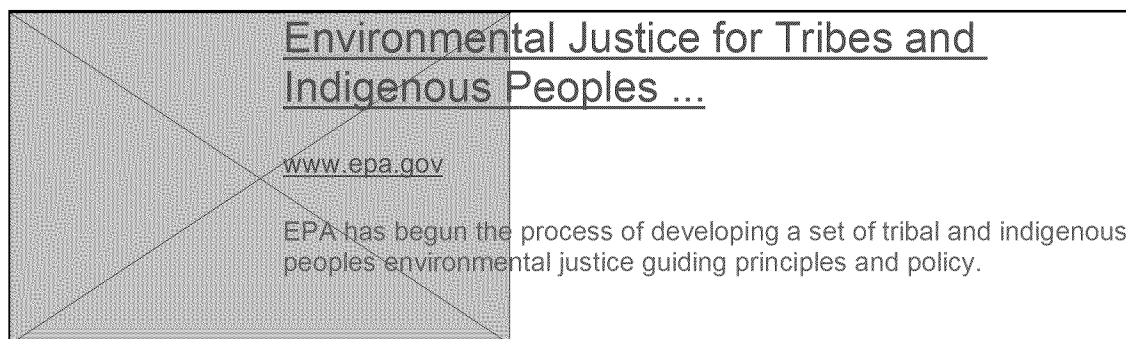
**Cc:** Rhodes, Julia <Rhodes.Julia@epa.gov>; Isales, Daniel <Isales.Daniel@epa.gov>; Jefferson, Tricia <Jefferson.Tricia@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>

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